

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI
Company Appeal (AT) (Insolvency) No. 143 of 2021**

In the matter of:

Shree Ambica Rice Mill

....Appellant

Vs.

Kaneri Agro Industries Ltd.

....Respondent

Present:

Appellant: Mr. Ketan M. Parikh, Mr. Karan Valecha, Advocates.

Respondent:

ORDER

(Through Virtual Mode)

02.03.2021: I.A No.328 of 2021: - In view of the grounds urged and keeping in view the directions given by the Hon'ble Apex Court in *suo moto* jurisdiction as also by this Appellate Tribunal in *suo moto* jurisdiction in regard to extension of period of limitation, delay of 103 days in preferring the appeal is condoned. I.A. No.328 of 2021 stands disposed of.

Apart from other issues, it is contended by Mr. Ketan M. Parikh, Advocate representing the Appellant- Financial Creditor that the dismissal of application of Appellant- Financial Creditor filed under Section 7 of the Insolvency and Bankruptcy Code, 2016 ("I&B Code" for short) in terms of the impugned order dated 7th October, 2020 passed by the Adjudicating Authority (National Company Law Tribunal), Ahmedabad Bench, Court-1, cannot be sustained as the account of the Corporate Debtor had been declared as NPA on

2nd August, 2019 and proceedings under SARFAESI Act, 2002 had been initiated against it. It is further submitted that the finding in regard to the application having been preferred in collusion with the Corporate Debtor is perverse and cannot be sustained and issuance of show cause notice against the Appellant under Section 65 of the 'I&B Code' cannot be supported.

Issue notice upon Respondent. Appellant to provide mobile Nos./ e-mail address of the Respondent. Notice be issued through e-mail or any other available mode. Requisites along with process fee be filed within three days.

List the appeal 'for admission (after notice)' on 5th April, 2021.

I.A No. 327 of 2021:- Meanwhile, as an ad-interim, we direct that the issuance of show-cause notice under Section 65 of the 'I&B Code' as against the Appellant shall remain on hold.

**[Justice Bansi Lal Bhat]
Acting Chairperson**

**[Dr. Ashok Kumar Mishra]
Member (Technical)**

AR/g